

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Richard E. FANGMAN

Confirmation No: 2194

Appl. No.: 09/903,838

Art Unit: 2419

Filed : July 11, 2001

Examiner: Andrew Chung Cheung LEE

For : SYSTEM AND METHOD FOR CONFIGURING AN IP TELEPHONY DEVICE

**LOSS OF ENTITLEMENT TO SES AND  
PETITION TO EXCUSE ERRORS IN SMALL ENTITY STATUS  
AND ACCEPT PAYMENT OF FEES AS A LARGE ENTITY  
UNDER 37 C.F.R. § 1.28(c)**

**Mail Stop PETITION**

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Dear Commissioner:

Pursuant to 37 C.F.R. § 1.27(g)(2), the Applicant hereby informs the PTO that the above-identified application is no longer eligible for small entity status.

Additionally, this is a petition under 37 C.F.R. § 1.28(c) to excuse errors in the inadvertent assertion of small entity status and to accept the payment of fees as a large entity for the above-identified application.

37 C.F.R. § 1.28(c) provides a procedure as to how errors in small entity status are excused. If status as a small entity is established in good faith, and fees as a small entity are paid in good faith, in any application or patent, and it is later discovered that such status as a small entity was established in error, or that through error the Office was not notified of a loss of entitlement to small entity status as required by § 1.27(g)(2), the error will be excused upon compliance with the separate submission and itemization requirements of paragraphs (c)(1) and (c)(2) of 37 C.F.R. § 1.28(c), and the deficiency payment requirement of paragraph (c)(2) of this section:

(1) Any paper submitted under this paragraph must be limited to the deficiency payment (all fees paid in error), required by paragraph (c)(2) of this section, for one application or one patent; and

(2) The deficiency owed, resulting from the previous erroneous payment of small entity fees, must be paid.

37 C.F.R. § 1.28(c) also states that:

(i) The deficiency owed for each previous fee erroneously paid as a small entity is the difference between the current fee amount (for other than a small entity) on the date the deficiency is paid in full and the amount of the previous erroneous (small entity) fee payment. The total deficiency payment owed is the sum of the individual deficiency owed amounts for each fee amount previously erroneously paid as a small entity.

(ii) An itemization of the total deficiency payment is required.

The itemization must include the following information:

(A) Each particular type of fee that was erroneously paid as a small entity, (e.g., basic statutory filing fee, two-month extension of time fee) along with the current fee amount for a non-small entity;

(B) The small entity fee actually paid, and when;

(C) The deficiency owed amount (for each fee erroneously paid); and

(D) The total deficiency payment owed, which is the sum or total of the individual deficiency owed amounts set forth in paragraph (c)(2)(ii)(C) of this section.

The present application became subject to large entity on May 14, 2009. Notification of Loss of Entitlement was inadvertently not filed in the PTO and the Notice of Appeal and One Month Extension of Time fees were inadvertently paid in a small entity amount.

According to the requirements of paragraphs (c)(1) and (c)(2) of 37 C.F.R. § 1.28(c), the Applicant submits the following:

(1) This paper is submitted herein specifically for U.S. Patent Application No. 09/903,838 and is limited to the deficiency payment for this application.

(2) The required payment of deficiency owed of \$335 as set forth in 37 C.F.R. § 1.28(c) is enclosed herewith.

Accordingly, the Applicant provides the calculation of the deficiency owed according to paragraph (i) and the itemization of deficiency payment according to paragraphs (ii)(A)-(D) as follows:

(A) Type of fee that that was erroneously paid as a small entity along with the current fee amount for a non-small entity:

- (i) Current Notice of Appeal Fee for large entity: \$540 (Fee code 1401/2401); and
- (ii) Current One Month Extension of Time for large entity: \$130 (Fee code 1251/2251).

(B) The small entity fee actually paid and when:

- (i) \$270 on May 22, 2009; and
- (ii) \$65 on May 22, 2009.

(C) The deficiency owed amount for fee erroneously paid:

- (i) \$335 (\$670 – 335).

(D) The total deficiency payment owed: \$335.

Payment in the amount of \$335 is being made via EFS. The Commissioner is hereby authorized to charge any additional fees, or credit any overpayment, to Deposit Account No. 50-2929, referencing Docket No: P116486.

P116468.A04

Should the Deciding Official have any questions or comments regarding this matter, the undersigned may be contacted at the below-listed telephone number.

Respectfully submitted,  
Richard E. FANGMAN

A handwritten signature in black ink, appearing to read 'Abraham HersHKovitz', written over a horizontal line.

Abraham HersHKovitz  
Reg. No. 45,294

July 8, 2009  
HERSHKOVITZ & ASSOCIATES  
2845 Duke Street  
Alexandria, VA 22314  
TEL: (703) 370-4800  
FAX: (703) 370-4809  
[patent@hershkovitz.net](mailto:patent@hershkovitz.net)

P116468.A04;AH/dj